

REMARKS/ARGUMENTS

Favorable reconsideration of this application in light of the following discussion is respectfully requested.

Claims 1-20 are pending in this application.

In the outstanding Official Action, Claims 1-11 and 13-20 were rejected under 35 U.S.C. §102(b) as anticipated by Linderman (U.S. Patent Publication No. 2002/0032790, hereinafter "Linderman"); Claim 12 was rejected under 35 U.S.C. §103(a) as unpatentable over Linderman in view of 'Frequently Asked Questions about XML', (Microsoft, June 2000).

As noted in the Amendment filed September 9, 2005, application of the Linderman reference in this anticipation rejection is improper. Accordingly, only the disclosure of U.S. Provisional Application No. 60/208,045 (P '045) will be treated herein.

With regard to the rejection of Claims 1-11 and 13-20 as anticipated by P '045, that rejection is respectfully traversed.

Claim 1 recites a communication system comprising, *inter alia*:

at least one processing unit capable of running a program to provide automation functions; and
one or more remote devices running a computer program or group of computer programs,
wherein the communications system is based on the Simple Object Access Protocol (SOAP) for the purpose of providing the remote device with supervision, display, control, configuration or programming functions of the automation equipment, and the communications system comprises, in the automation equipment, at least one WEB service or one WEB client which are capable of interacting with the program of the automation equipment, of decoding messages received from the IP network encoded according to the SOAP protocol and of encoding according to the SOAP protocol messages to be sent on the IP network.

The outstanding Office Action conceded at page 6, lines 19-20 that P '045 does not teach the T-box 32 of Linderman. The outstanding Office Action then alleges that "the

provisional application '045 teaches the concept of the T-box and its equivalent functionalities.”¹

As P '045 at best describes “the concept of the T-box,” it is respectfully submitted that well settled case law indicates that P '045 does not teach each and every element of Claim 1. For example, “The identical invention must be shown *in as complete detail* as is contained in the ... claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). (Emphasis added). See also MPEP §2131. As conceded by the outstanding Office Action, P '045 does not show “at least one WEB service” as recited in Claim 1. Thus, P '045 clearly does not provide the level of detail recited in Claim 1. Thus, Claim 1 (and Claims 2-11 and 13-17 dependent therefrom) is not anticipated by P '045 and is patentable thereover.

Further, it is respectfully submitted that P '045 does not include an enabling disclosure of any apparatus. In accordance with well settled case law, the disclosure in an assertedly anticipating reference must provide an enabling disclosure of the desired subject matter; *mere naming or description of the subject matter is insufficient*, if it cannot be produced without undue experimentation. *Elan Pharm., Inc. v. Mayo Found. For Med. Educ. & Research*, 346 F.3d 1051, 1054, 68 USPQ2d 1373, 1376 (Fed. Cir. 2003). (Emphasis added.) See also MPEP §2121.01. In the present case, P '045 includes no figures and at best vaguely describes the prospective product “DaberNet.” Thus, it is respectfully submitted that one of ordinary skill in the art would not be able to produce the apparatus allegedly disclosed by this brief document without undue experimentation. Consequently, as P '045 is not an enabling disclosure, Claim 1 (and Claims 2-11 and 13-17 dependent therefrom) is not anticipated by P '045 and is patentable thereover.

With regard to the rejection of Claim 12 as unpatentable over P '045 in view of

¹See the outstanding Office Action at page 7, lines 8-9.

Application No. 09/940,462
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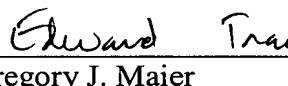
'Frequently Asked Questions about XML,' it is noted that Claim 12 is dependent from Claim 1, and thus is believed to be patentable for at least the reasons discussed above with respect to Claim 1. Further, it is respectfully submitted that 'Frequently Asked Questions about XML' does not cure any of the above-noted deficiencies of P '045. Accordingly, it is respectfully submitted that Claim 12 is patentable over P '045 in view of 'Frequently Asked Questions about XML.'

Independent Claims 18 and 19 recite similar elements to Claim 1, albeit in process form. Accordingly, Claims 18 and 19 (and Claim 20 dependent therefrom) is believed to be patentable over P '045 for at least the reasons described above with respect to Claim 1.

Accordingly, the present application is believed to be in condition for formal allowance. An early and favorable action to that effect is respectfully requested.

Respectfully submitted,

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